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NAVAL AIR SYSTEMS COMMAND
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IN REPLY REFER TO

NAVAIRINST 4200.8C CH-1

AIR-2.1.1.5

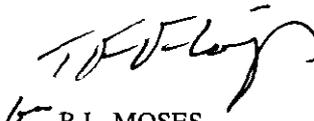
OCT 29 2001

NAVAIR INSTRUCTION 4200.8C CHANGE TRANSMITTAL 1

From: Commander, Naval Air Systems Command

Subj: POLICY AND PROCEDURES FOR PROCESSING UNSOLICITED PROPOSALS

1. Purpose. To make a procedural change to NAVAIR Instruction 4200.8C.
2. Action. Change NAVAIR Instruction 4200.8C, Enclosure (1), paragraph 2c(3) to read: "All correspondence relating results of technical evaluations will be drafted by the focal point using input from the technical evaluator's comprehensive evaluation. This correspondence will be signed by AIR 2.1.1".


R.L. MOSES
by direction

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DEPARTMENT OF THE NAVY
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47123 BUSE ROAD, UNIT #IPT
PATUXENT RIVER, MD 20670-1547

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NAVAIR INSTRUCTION 4200.8C

From: Commander, Naval Air Systems Command

Subj: POLICY AND PROCEDURES FOR PROCESSING UNSOLICITED PROPOSALS

Ref: (a) Federal Acquisition Regulation (FAR) Subpart 15.6

Encl: (1) Procedures for Processing Unsolicited Proposals

1. Purpose. To establish and provide procedures for submittal and processing of unsolicited proposals.
2. Cancellation. NAVAIRINST 4200.8B of 25 Oct 78. Since this is a major revision, changes are not indicated.
3. Scope. While this instruction does not apply to the Naval Inventory Control Point – Philadelphia (NAVICP-P), it does apply to the remainder of the Naval Aviation Systems Team (TEAM) including the Naval Air System Command Headquarters (NAVAIRHQ), Naval Air Warfare Centers (NAVAIRWARCENS), Naval Aviation Depots (NAVAVNDEPOTs), site activities, and those activities receiving TEAM support under operating agreements, such as the naval aviation Program Executive Officers (PEOs). Concurrence has been obtained for approval of this instruction.
4. Discussion
 - a. An unsolicited proposal is defined in FAR 15.601. Unsolicited proposals are a valuable means for government agencies to obtain innovative or unique methods or approaches to accomplish their missions from sources outside the government. Advertising material, commercial item offers, or contributions, as defined in FAR 15.601, or routine correspondence on technical issues, are not considered unsolicited proposals.
 - b. An unsolicited proposal must comply with FAR 15.603(c) in order to be valid. An unsolicited proposal must meet the requirements of FAR 15.606-1(a) in order to be forwarded for a comprehensive evaluation.
 - c. The FAR can be accessed at the following web site: <http://www.arnet.gov/far>.

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5. Policy. Specific procedures for processing unsolicited proposals are contained in enclosure (1). In general, the policies pertaining to the review and processing of unsolicited proposals are as follows:

a. It is the policy of this Command to encourage submission of unsolicited proposals that relate to the Command's mission, and to protect proposals from unauthorized disclosure of ideas they contain.

b. The total effort involved in processing unsolicited proposals including, but not limited to, administrative review, technical and cost evaluation, disposition recommendations and oral or written communications with the offeror, shall be performed by government personnel except in extraordinary cases. The use of non-government personnel is strictly limited to leading scientists and recognized experts who may be needed to evaluate proposals of very high potential benefit. In the event that it is necessary to use non-government personnel to evaluate the proposal, the focal point will obtain written permission from the offeror. Non-government personnel will not have access to the unsolicited proposal, until the offeror provides the focal point with written permission to disclose the data in accordance with FAR 15.609(h), and this document is reviewed by the Office of Counsel (AIR-7.7) for legal sufficiency. Personnel evaluating unsolicited proposals shall give fair and unbiased consideration to all such proposals regardless of source. The scope of evaluations shall, as a minimum, be consistent with the criteria in FAR 15.606-2.

c. Solicitations and contracts which result from unsolicited proposals shall be processed following applicable acquisition regulations and this instruction. Unless such action has been specifically authorized by the offeror in writing, the content of an unsolicited proposal, in whole or in part, which is not otherwise legally available to the government, shall not be used as part of a solicitation, contract, or negotiation with any other firm. To award a contract based on unsolicited proposals without providing for full and open competition requires that appropriate authority exist in FAR Subpart 6.3

d. The following are factors to consider in determining whether the unsolicited proposal meets the criteria of FAR 15.603(c):

(1) the proposal is a normal development or an extension of an existing Department of Defense (DOD) program, or for a specific requirement, which would normally result in a standard competitive procurement;

(2) the proposal is based on information furnished by DOD to the offeror, which should also have been furnished to other sources;

(3) the designation "unsolicited proposal" is applied for the apparent purpose of avoiding competition;

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(4) the proposal is based on information already in the public domain, or on information to which the offeror has no exclusive right either as a matter of law or ethical business practice;

(5) circumstances exist that create a question as to the right of the offeror to exclusive consideration;

(6) DOD personnel at the program management or higher level have requested that a contractor submit a proposal on a given topic; or

(7) the submittal is an alternate proposal submitted as a result of any solicitation issued by the TEAM.

6. Guidance

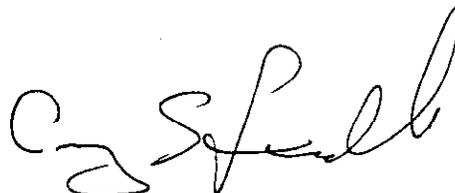
a. It is appropriate for potential offerors to make preliminary contacts before expending extensive effort on a detailed unsolicited proposal or submitting proprietary data to the government. Preliminary contacts for information from government personnel are limited to the following:

(1) inquiries as to the general need for the type of effort contemplated; or

(2) contacts for the limited purpose of obtaining an understanding of the TEAM mission and responsibilities relative to the type of effort contemplated.

b. If the offeror makes inquiries as to the general need for the type of effort contemplated, government personnel must not suggest that the contractor provide a proposal.

7. Action. Addressees shall comply with the procedures for processing proposals set forth in enclosure (1).



CRAIG E. STEIDLE

By direction

See Distribution on next page

NAVAIRINST 4200.8C

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PROCEDURES FOR PROCESSING UNSOLICITED PROPOSALS

1. The designated focal points for the initial receipt, evaluation routing, and oversight for timely disposition of unsolicited proposals are: Policy and Process Management, Policy Management Division (AIR-2.1.1), for proposals submitted to the Naval Air Systems Command Headquarters (NAVAIRHQ) or Naval Air Warfare Center Aircraft Division (NAVAIRWARCENACDIV); Training Systems Division, for proposals submitted to the Naval Air Warfare Center (NAVAIRWARCENTRASYS DIV), Orlando, FL; Contract Technology Office, for proposals submitted to the Naval Air Warfare Center Weapons Division (NAVAIRWARCENWPNDIV), China Lake or Point Mugu, CA. The TEAM focal points for the field sites are shown on the Naval Air Systems Command (NAVAIR) Web Page at <http://www.navair.navy.mil>. Personnel of a department/division without a focal point designated at their site, who receive an unsolicited proposal directly from an offeror, shall refer or forward such proposal immediately to AIR-2.1.1 prior to taking any action thereon.

2. The TEAM focal points shall:

a. Protect unsolicited proposals from unauthorized disclosure of the ideas they contain:

(1) If the offeror wishes to restrict the data in the proposal, the offeror must mark the title page with the legend set forth at FAR 15.609(a). If the proposal is marked with another legend, the unsolicited proposal will be returned with a letter stating that the proposal cannot be considered because it is impracticable for the government to comply with the legend, and that the government will consider the proposal if it is resubmitted with the proper legend. Upon receipt of the corrected proposal, the unsolicited proposal will be processed as set forth in paragraph 2b below.

(2) If the proposal contains no restrictive legend, and unless the offeror has given a clear written indication that the offeror does not wish to impose any restrictions on disclosure or use of the data contained in the proposal, the focal point shall place a cover sheet on the proposal containing the FAR 15.609(d) notice, "UNSOLICITED PROPOSAL - USE OF DATA LIMITED".

b. Determine the competency/division/program office holding technical cognizance over the subject matter addressed by the proposal. Route the unsolicited proposal through the office of technical cognizance for initial review/assessment (see paragraph 3a of this enclosure). The following actions will be taken depending upon the results of the initial review:

(1) If the proposal does not meet the requirements of paragraph 4b of this instruction, or falls within the categories listed in paragraph 5d of this instruction, return the proposal to the source and indicate why it cannot be treated as an unsolicited proposal.

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(2) If the proposal meets the requirements set forth in paragraph 4b of this instruction, and does not fall within one of the seven categories listed in paragraph 5d of this instruction, forward a letter to the offeror acknowledging receipt and advising that a subsequent letter will provide evaluation results within 45 days. The offeror will also be informed of any delays encountered during comprehensive evaluation of the proposal, and revised dates for completion of the evaluations.

(3) Questionable cases should be referred to Office of Counsel for an opinion.

c. Upon receipt of the comprehensive evaluation from the office of technical cognizance, the following actions will be taken depending upon the results of the comprehensive evaluation:

(1) If the comprehensive evaluation states that the unsolicited proposal does not meet the requirements of paragraph 4b of this instruction, return the unsolicited proposal to the offeror with a letter explaining the results of the evaluation and citing the reasons why the proposal cannot be accepted (see FAR 15.607(a)).

(2) If the comprehensive evaluation states that the unsolicited proposal meets the requirements of paragraph 4b of this instruction, forward a notification of interest to the offeror informing them of the favorable results of the evaluation. The letter should explain whether the government is considering an award of a contract based on the unsolicited proposal, but that such contractual action must follow FAR Part 5 (Publicizing Contract Actions), FAR Part 6 (Competition Requirements), and all other applicable portions of the FAR and its supplements. If the evaluation was favorable, but the government is not in a position to pursue a contract award at this time (i.e., no funds are available), this information should be relayed to the offeror.

(3) All correspondence relating results of technical evaluations will be drafted by the focal point, but signed by the evaluator.

d. Enter all bibliographic data of each proposal into a database log, to include name of the offeror, date of receipt, office of technical cognizance, progression of the evaluation through disposition, and dates for each entry.

e. Retain copies of letters prepared pursuant to either paragraphs 2a, 2b or 2c of this enclosure, correspondence between the office of technical cognizance and the offeror, and evaluations of the unsolicited proposals.

3. The office of technical cognizance receiving an unsolicited proposal from one of the focal points shall:

a. Upon receipt of an unsolicited proposal, perform initial review to determine whether the proposal meets the requirements set forth in paragraph 4b of this instruction, or falls within one of the seven categories of paragraph 5d of this instruction. If the proposal does not meet the requirements of paragraph 4b, or falls within the categories listed in paragraph 5d, return the

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proposal to the focal point with a statement indicating why it cannot be treated as an unsolicited proposal. If the proposal meets the requirements set forth in paragraph 4b, and does not fall within one of the seven categories listed in paragraph 5d, then perform a comprehensive evaluation.

b. When performing a comprehensive evaluation, consider the following factors from FAR 15.606-2:

- (1) unique, innovative and meritorious methods, approaches, or concepts demonstrated by the proposal;
- (2) overall scientific, technical, or socioeconomic merits of the proposal;
- (3) potential contribution of the effort to the agency's specific mission;
- (4) the offeror's capabilities, related experience, facilities, techniques, or unique combinations of these that are integral factors for achieving the proposal objectives;
- (5) the qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel critical to achieving the proposal objectives; and
- (6) the realism of the proposed cost, including evaluation of future logistics support costs.

c. The office of technical cognizance may communicate with the offeror on technical matters, if necessary. Written requests to the offeror for additional technical information shall contain a statement substantially as follows:

"It is understood that compliance with the request contained herein will not be the basis for any claim against the United States, nor shall any costs incurred in such compliance be reimbursed by the United States unless such reimbursement is the subject of a prior bilateral advance agreement entered into in writing by the Contracting Officer."

Any oral discussions must be predicated on this understanding. Care must be taken that the government does not inadvertently provide supervision, endorsement, direction, or direct involvement, which would invalidate the status of the unsolicited proposal. A copy of any written discussions, or a memorandum for record summarizing oral discussions, shall be furnished to the focal point.

d. The government is required to provide results of the comprehensive evaluation to the offeror within 45 days of receipt of the unsolicited proposal. If it appears that the evaluation will require a greater length of time, written notification of the delay and an anticipated completion date shall be provided to the focal point, who will inform the offeror of the delay.

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e. The results of the comprehensive evaluation shall be forwarded to the focal point. The evaluation shall include all information necessary to either (1) inform the offeror as to why the proposal was not considered as favorable, or (2) provide justification to initiate a contract action. Additionally, the following information shall be provided:

(1) a statement that the unsolicited proposal meets the requirements of FAR 15.603(c), and that the factors in paragraph 5d of this instruction have been considered, investigated, and do not apply;

(2) identity of the Naval Aviation Systems Team (TEAM) personnel who made the assessment of the unsolicited proposal and the basis for conclusions reached; and

(3) identity of other persons or agencies contacted.

All copies of evaluation statements, including those for unsolicited proposals not favorably considered favorable for contractual action, shall be marked "For Official Use Only" (FOUO) under authority of exemption 5 of the Freedom of Information Act (FOIA).

f. If the results of the comprehensive evaluation are favorable, the office of technical cognizance should begin procedures to initiate a contractual action. Acquisition regulations prohibit the release of a solicitation document or commencement of negotiations in any form until such time as any required Justification and Approvals (J&A) or Determinations and Findings (D&F) have been signed by an authorized TEAM Contracting Officer or by an authorized approving official of the Office of the Secretary of the Navy, depending upon the value of the proposed contract and the nature of the requirement. This prohibition also applies to all proposed contract placements originating as a result of unsolicited proposals. Consequently, any proposed contractual action or discussions relating to a proposed contract shall be handled under this prohibition and other normal contractual practices, but only after receipt of a Procurement Initiation Document/Purchase Request (PID/PR). A copy of the approved PID/PR shall be forwarded to the focal point for inclusion in the file.